UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III

1650 Arch Street Philadelphia, Pennsylvania 19103

VIA USPS First Class Mail

Matt Phillips
Commonwealth Laminating and Coating, Inc.
345 Beaver Creek Drive
Martinsville, VA 24112

Re:

Resource Conservation and Recovery Act

Consent Agreement and Final Order

In the Matter of: Commonwealth Laminating and Coating, Inc.

Docket No. RCRA-03-2011-0306

Dear Mr. Phillips:

Enclosed is the Consent Agreement/Final Order ("CAFO") filed in the above named action pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

Sincerely,

Abraham Ferdas

Director

Land and Chemicals Division

Enclosure

cc:

Charles L. Williams Gentry Locke Rakes & Moore 10 Franklin Road SE Suite 800 Roanoake, VA 24011

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 55

REGION III 1650 Arch Street

REGIONAL HEARING CLERM EPA REGION IIL PHILA. PA

Philadelphia, Pennsylvania 19103

IN THE MATTER OF:		
Commonwealth Laminating & Coating, Inc. 345 Beaver Creek Drive Martinsville, VA 24112))))	Docket No. RCRA-03-2011-0306 CONSENT AGREEMENT Proceeding under Sections 3008(a) and (g)
RESPONDENT)))	of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6928(a) and (g)

I. PRELIMINARY STATEMENT

- 1. This Consent Agreement ("CA") is entered into by the Director of the Land and Chemicals Division, United States Environmental Protection Agency, Region III ("Complainant" or "EPA"), and Commonwealth Laminating & Coating, Inc. ("CLC" or "Respondent"), pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached Final Order ("FO", hereinafter jointly referred to as the "CA/FO") both commence and conclude the above-captioned administrative proceeding against Respondent, brought under Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a) and (g), for alleged violations of RCRA at Respondent's facility at 345 Beaver Creek Drive, Martinsville, VA, 24112 (the "Facility").
- 2. The Commonwealth of Virginia has received federal authorization to administer a Hazardous Waste Management Program (the "Virginia Hazardous Waste Management Program") in lieu of the federal hazardous waste management program established under RCRA Subtitle C, 42 U.S.C. §§ 6921-6939e. The Virginia Hazardous Waste Management Regulations ("VaHWMR"), as codified at 9 VAC 20-260-10 et seq. (1984), were authorized, effective December 18, 1984 (49 Fed. Reg. 47391 (December 4, 1984)), by EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A, and subsequently were re-authorized effective: August 13, 1993 (58 Fed. Reg. 32,885 (June 14, 1993)); September 29, 2000 (65 Fed. Reg. 46,607 (July 31, 2000)); June 20, 2003 (68 Fed. Reg. 36,925 (June 20, 2003)); July 10, 2006 (71 Fed. Reg. 27,216 (May 10, 2006)); and July 30, 2008 (73 Fed. Reg. 44,168 (July 30, 2008)). The provisions of Virginia's current authorized revised VaHWMR have become requirements of RCRA Subtitle C and are enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a).

- 3. The factual allegations and legal conclusions in this CA are based on provisions of the VaHWMR in effect at the time of the violations alleged herein. The current VaHWMR incorporate, with certain exceptions, definitions and adopt specific provisions of Title 40 of the 2006 Code of Federal Regulations by reference. See 9 VAC 20-60-14, -18 and -260 through 279.
- 4. On January 11, 2011 EPA sent a letter to the Commonwealth of Virginia, through the Virginia Department of Environmental Quality, giving Virginia prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).
- 5. This CA is entered into by Complainant and Respondent to address the violations alleged in the Allegations of Fact, as set forth below.
- 6. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this CA.
- 7. For the purposes of this proceeding only, Respondent neither admits nor denies the Allegations of Fact contained in this CA, except as provided in Paragraph 6, above.
- 8. For the purposes of this proceeding only, Respondent neither admits nor denies the Conclusions of Law contained in this CA, except as provided in Paragraph 6, above.
- 9. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations herein or to appeal the FO attached hereto.
- 10. The settlement agreed to by the parties in this CA reflects the desire of the parties to resolve this matter without litigation.
- 11. Respondent consents to the issuance of this CA and to the attached FO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this CA, the issuance of the attached FO, or the enforcement thereof.
- 12. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. ALLEGATIONS OF FACT AND CONCLUSIONS OF LAW

13. This section represents the Allegations of Fact and Conclusions of Law made by Complainant in this matter. As set forth in Paragraphs 7 and 8, above, Respondent neither admits nor denies these Allegations of Fact and Conclusions of Law, but agrees to this settlement to avoid further litigation, as set forth in Paragraph 10, above.

- 14. Respondent is, and was at the time of the violations alleged herein, a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and in 40 C.F.R. § 260.10, and as incorporated by reference by 9 VAC 20-60-260.A.
- 15. Respondent is, and was at the time of the violations alleged herein, the "owner" and "operator" of a "facility" located at 345 Beaver Creek Drive, Martinsville, VA 24112 (the "Facility"), as those terms are defined in 40 C.F.R. § 260.10, and as incorporated by reference by 9 VAC 20-60-260.A.
- 16. On November 17, 2010, a representative from EPA conducted an inspection at the Facility.
- 17. At the time of the inspection, and at all times relevant to the violations alleged in this CA, Respondent was a "generator," and was engaged in the "storage" of materials described herein that are "solid wastes" and "hazardous wastes" in "containers" at the Facility, as those terms are defined in 40 C.F.R. § 260.10, as incorporated by reference by 9 VAC 20-60-260. For the purposes of this proceeding, at all times relevant to the violations alleged in this CA, EPA has determined that Respondent generated greater than 1,000 kg of hazardous waste in a calendar month. Respondent was also a "small quantity handler" of "universal waste," specifically "universal waste lamps," as those terms are defined in 40 C.F.R. § 273.9, as incorporated into 9 VAC 20-60-273.

COUNT I

(Operating a treatment, storage, or disposal facility without a permit or interim status)

- 18. The allegations of Paragraphs 1 through 17 of this Consent Agreement are incorporated herein by reference.
- 19. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and 40 C.F.R. § 270.1(b), as incorporated by reference into 9 VAC 20-60-270(a), no person may own or operate a facility for the treatment, storage, or disposal of hazardous waste unless such person has first obtained a permit for the facility or qualifies for interim status for such facility.
- 20. Respondent has never been issued a permit, pursuant to Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), or 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. Part 270, for the storage of hazardous waste at the Facility, and did not have interim status pursuant to Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), or 9 VAC 20-60-270, which incorporates by reference 40 C.F.R. § 270.1(b), at any time.
- 21. 40 C.F.R. §262.34(a), as incorporated by reference into 9 VAC 20-60-262, provides in pertinent part that a large quantity generator of hazardous waste who accumulates hazardous waste in containers on-site for less than 90 days is exempt from the requirement

to obtain a permit for such accumulation, so long as the hazardous waste is stored in accordance with a number of provisions set forth in that section, including, *inter alia*:

- a. 40 C.F. R. § 265.16(c), which is incorporated by reference into 40 C.F.R. § 262.43(a)(4), which in turn, is incorporated by reference in 9 VAC 20-60-262, provides that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with hazardous waste management regulations, and also that facility personnel must take part in an annual review of the required initial training; and
- b. 40 C.F.R. § 265.16(d), which is incorporated by reference into 40 C.F.R. § 262.43(a)(4), which in turn, is incorporated by reference in 9 VAC 20-60-262, provides that the owner or operator of the facility must keep records at the facility documenting the job title for each position at the facility relating to hazardous waste management and the name of the employee filling each job; a written job description for each position listed, including the duties of facility personnel assigned to each position; and the training required and completed by the personnel filling the positions.
- 22. At the time of EPA's Inspection, Respondent was not in compliance with all of the conditions for temporary accumulation of hazardous waste by a large quantity generator pursuant to 40 C.F.R. § 262.34(a) as incorporated by reference into 9 VAC 20-60-262, described in Paragraph 21, above, and therefore did not qualify for the exemption from the permitting/interim status requirements provided by such sections. Specifically, Respondent failed to satisfy the exemption conditions set forth in 40 C.F.R. § 262.34(a) incorporated in 9 VAC 20-60-260(A) in the following ways:
 - a. By failing to conduct annual refresher training for employees, including one employee listed in the Facility's emergency contingency plan; and
 - b. By failing to maintain a documentation of the job titles and job description for each position at the facility related to hazardous waste management.
- 23. 40 C.F.R. § 262.34(c), as incorporated by reference into 9 VAC 20-60-262, additionally provides that a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status, provided that:
 - a. each container is labeled or marked clearly with the words "Hazardous Waste" or with other words that identify the contents of the container; and

- b. the generator must comply with the requirements of 40 C.F.R. Part 265 Subpart I, including the requirement at 40 C.F.R. § 265.173(a) that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- 24. At the time of EPA's Inspection, Respondent was not in compliance with all of the conditions of 40 C.F.R. § 262.34(c) as incorporated by reference into 9 VAC 20-60-262, described in Paragraph 23, above. Specifically, Respondent failed satisfy the exemption conditions set forth in 40 C.F.R. § 262.34(c) in the following ways:
 - a. By failing to mark containers of hazardous waste with the words "Hazardous Waste" or other words identifying the contents of the containers, specifically containers in the Laboratory, the U73 Pressure-Sensitive Coating Room, and the Polyester Dyeing Line that were either unlabeled or labeled only as "waste;" and
 - b. By failing to keep containers holding hazardous waste closed during storage, except when necessary to add or remove waste.
- 25. The Facility was, at all times relevant to the violations alleged in this CA, a hazardous waste treatment, storage or disposal "facility," as the term is defined by 40 C.F.R. § 260.10, and as incorporated by reference by 9 VAC 20-60-260.A, with respect to the activities and units described herein.
- 26. Respondent has never had a permit or interim status for the Facility pursuant to 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. Part 270 with exceptions not relevant herein, and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e).
- 27. Respondent stored hazardous waste at the Facility without a permit, interim status or valid exemption, in violation of 9 VAC 20-60-270.A, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a).

COUNT II

(Failure to keep containers closed except when adding or removing hazardous waste)

- 28. The allegations of Paragraphs 1 through 27 of this Consent Agreement are incorporated herein by reference.
- 29. Pursuant to 40 C.F.R. § 264.173(a), as incorporated by reference into 9 VAC 20-60-264, a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

- 30. At the time of the November 17, 2010 Inspection, several satellite accumulation containers at the Facility holding hazardous waste were open during storage, even though it was not necessary to add or remove waste from these containers at the time of the inspection.
- 31. On November 17, 2010 Inspection, Respondent failed to keep containers holding hazardous waste closed during storage at the Facility while it was not necessary to add or remove waste, in violation of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.173(a).

COUNT III (Failure to Make a Waste Determination)

- 32. The allegations of Paragraphs 1 through 31 of this Consent Agreement are incorporated herein by reference.
- 33. 9 VAC 20-60-262, which incorporates 40 C.F.R. § 262.11, requires that any person who generates a solid waste, as defined in 9 VAC 20-60-261, which incorporates by reference 40 C.F.R. § 261.2, must determine if that waste is a hazardous waste.
- 34. During the November 17, 2010 Inspection, aerosol cans and contaminated solvent wipes were disposed of in the general trash, and facility representatives indicated that this was CLC's typical practice for handling aerosol cans. Respondent failed to determine whether the aerosol cans and the contaminated solvent wipes, which are solid wastes, are hazardous wastes.
- 35. Respondent failed to make hazardous waste determinations for the aerosol cans and the contaminated solvent wipes described above in violation of 9 VAC 20-60-262, which incorporates by reference 40 C.F.R. § 262.11.

COUNT IV (Failure to Store Universal Waste in Closed Containers)

- 36. The allegations of Paragraphs 1 through 35 of this Consent Agreement are incorporated herein by reference.
- 37. 9 VAC 20-60-273, incorporating 40 C.F.R. § 273.13(d)(1), requires, among other things, that a small quantity handler of universal hazardous waste, including used fluorescent lamps, contain the waste in structurally-sound containers or packages that remain closed and lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- 38. At the time of the November 17, 2010 Inspection, there were six open boxes containing universal waste lamps, as well as several loose universal waste lamps, in the Boiler Room.
- 39. Respondent failed to keep the universal waste lamps described above in properly closed containers, in violation of 9 VAC 20-60-273, which incorporates by reference 40 C.F.R. § 273.13(d)(1).

COUNT V (Failure to Label Universal Waste Containers)

- 40. The allegations of Paragraphs 1 through 39 of this Consent Agreement are incorporated herein by reference.
- 41. 9 VAC 20-60-273, which incorporates by reference 40 C.F.R. § 273.14(e), requires that each spent lamp, or container or package containing such lamps, must be clearly labeled with one of the following phrases: "Universal Waste-Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)."
- 42. At the time of the November 17, 2010 inspection, none of the boxes of lamps or loose lamps in the Boiler Room were properly labeled or marked.
- 43. Respondent failed to label or mark its universal waste lamps or lamp containers in violation of 9 VAC 20-60-273, which incorporates by reference 40 C.F.R. § 273.14(e).

COUNT VI (Failure to Conduct Annual Hazardous Waste Training)

- 44. The allegations of Paragraphs 1 through 43 of this Consent Agreement are incorporated herein by reference.
- 45. 9 VAC 20-60-264 incorporates by reference 40 C.F.R. Part 264, including 40 C.F.R. § 264.16(a), which requires that facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with hazardous waste management regulations.
- 46. 40 C.F. R. § 264.16(c), also incorporated by reference by 9 VAC 20-60-264, additionally requires that personnel must take part in an annual review of the required initial training.
- 47. For the calendar years 2006, 2007, 2008, 2009, and 2010, Respondent failed to provide a hazardous waste training program and annual reviews of such training to facility personnel whose positions related to hazardous waste management, specifically to a facility employee listed in the Facility's emergency contingency plan.

48. Respondent violated 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. §§ 264.16(a) and (c) by failing to provide a hazardous waste training program and annual reviews of such training to ensure that facility personnel perform their duties in a way that ensures the Facility's compliance with the requirements of RCRA.

COUNT VII (Failure to Maintain Job Description Records)

- 49. The allegations of Paragraphs 1 through 48 of this Consent Agreement are incorporated herein by reference.
- 50. 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. Part 264, including 40 C.F.R. § 264.16(d), requires that the owner or operator of the facility keep records at the facility documenting the job title for each position at the facility relating to hazardous waste management and the name of the employee filling each job; a written job description for each position listed, including the duties of facility personnel assigned to each position; and the training required and completed by the personnel filling the positions.
- 51. At the time of the November 17, 2010 Inspection, Respondent failed to maintain the job titles or written job descriptions of employees whose positions related to hazardous waste management.
- 52. Respondent failed to maintain records containing the job titles and written job descriptions of employees whose positions related to hazardous waste manage in violation of 9 VAC 20-60-264, which incorporates by reference 40 C.F.R. § 264.16(d).

III. CIVIL PENALTY

- 53. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in this CA/FO, Respondent consents to the assessment of a civil penalty in the amount of THIRTY-TWO THOUSAND DOLLARS (\$32,000) which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CA/FO, fully executed by the parties, signed by the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest in connection with such civil penalty as described in this CA/FO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CA/FO is mailed or hand-delivered to Respondent.
- 54. Pursuant to 26 U.S.C. § 162(f), the civil penalty agreed to herein is not tax-deductible.

- 55. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of the violations and good faith efforts of the Respondent to comply, as provided for in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3).
- 56. Payment of the civil penalty amount set forth in paragraph 53, above, shall be made by either cashier's check, certified check, electronic wire transfer, or online via credit or debit card in the following manner:
 - a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA-03-2011-0306;
 - b. All checks shall be made payable to United States Treasury;
 - c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency Fines and Penalties Cincinnati Finance Center P.O. Box 979077 St. Louis, MO 63197-9000

d. All payments made by check and sent by overnight delivery service or Fed Ex shall be addressed for delivery to:

U.S. Bank Government Lockbox 979077 U.S. EPA, Fines & Penalties 1005 Convention Plaza Mail Station SL-MO-C2-GL St. Louis, MO 63101

Contact: 314-418-1028

e. All payments made by check in any currency drawn with no USA branches shall be addressed to:

Cincinnati Finance U.S. E.P.A., MS-NWD 26 W ML King Drive Cincinnati OH 45268-0001

f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York

ABA: 021030004

Account No.: 68010727

SWIFT address: FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read: D 680107027 Environmental Protection Agency

g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver

ABA = 051036706

Account No.: 310006, Environmental Protection Agency

CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court

Riverdale, MD 20737

Contact: John Schmid 202-874-7026 or REX 1-866-234-5681

h. All on-line payments with a debit or credit card:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

57. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/payment_instructions.htm

58. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

T. Christopher Minshall
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Lydia Guy Regional Hearing Clerk U.S. Environmental Protection Agency Region III (Mail Code 3RC00) 1650 Arch Street Philadelphia, PA 19103-2029

- 59. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA/FO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
- 60. Interest on the civil penalty assessed in this CA/FO will begin to accrue on the date that a true and correct copy of this signed CA/FO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
- 61. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

62. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent for more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. COMPLIANCE ORDER

63. The person signing this CA on behalf of the Respondent certifies to EPA by his or her signature herein that Respondent, as of the date of its execution of this CA/FO, is in compliance with the provisions of RCRA, Subtitle C, 42 U.S.C. §§ 6901 et seq., and the Commonwealth of Virginia's federally authorized hazardous waste program set forth at 9 VAC 20-60-10 et seq. at the Facility referenced herein. This certification is based on the personal knowledge of the signer or an inquiry of the person or persons responsible for the Facility's compliance with Subtitle C of RCRA.

V. OTHER APPLICABLE LAWS

64. Nothing in this CA/FO shall relieve Respondent of any duties or obligations otherwise imposed upon it by applicable Federal, State or local laws or regulations.

VI. RESERVATION OF RIGHTS

65. This CA/FO resolves only EPA's claims for civil penalties for the specific violations of RCRA Subtitle C which are alleged herein. Nothing herein shall be construed to limit the authority of the Complainant to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in § 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CA/FO.

VII. FULL AND FINAL SATISFACTION

66. This settlement shall constitute full and final satisfaction of Complainant's claims for civil penalties for the specific violations set forth in the CA/FO.

VIII. PARTIES BOUND

67. This CA/FO shall apply to and be binding upon EPA, Respondent, and Respondent's officers, employees, agents, successors and assigns. By his/her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Agreement on behalf of Respondent and to bind Respondent to the terms and conditions of this CA/FO.

IX. EFFECTIVE DATE

68. The effective date of this CA/FO is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk.

X. ENTIRE AGREEMENT

69. This CA/FO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CA/FO.

For the Respondent:

Commonwealth Laminating & Coating, Inc.

Date: 9/27/11

By: Melani J. Bujant
Name Melanie J. Bryant

Title OF

For the Complainant:

U.S. Environmental Protection Agency, Region III

Date: $\frac{9/29/11}{2}$

T. Christopher Minshall

Senior Assistant Regional Counsel

The Land and Chemicals Division, United States Environmental Protection Agency - Region III, recommends that the Regional Administrator of the U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 9/29/11

Abraham Ferdas, Director

Land and Chemicals Division

2011 SEP 30 AM 11: 55

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ERK REGION III EPA REGION IIL PHILA, PA

1650 Arch Street Philadelphia, PA 19103-2029

IN THE MATTER OF:		
)	Docket No. RCRA-03-2011-0306
Commonwealth Laminating &)	
Coating, Inc.)	
345 Beaver Creek Drive)	FINAL ORDER
Martinsville, VA 24112)	Proceeding under Sections 3008(a) and (g)
)	of the Resource Conservation and
RESPONDENT)	Recovery Act, as amended, 42 U.S.C. §
	,)	6928(a) and (g)

FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Commonwealth Laminating & Coating, Inc., have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of **THIRTY-TWO THOUSAND DOLLARS** (\$32,000) as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

Date: 9/30/11

BY:

Renée Sarajian

Regional Judicial Officer

RECEIVED

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 5

REGION III 1650 Arch Street

WEGIONAL HEARING CLERK EPA REGION III. PHILA. PA

Philadelphia, PA 19103-2029

IN THE MATTER OF:		
)	Docket No. RCRA-03-2011-0306
Commonwealth Laminating and)	
Coating, Inc.)	
345 Beaver Creek Drive	j j	CERTIFICATE OF SERVICE
Martinsville, VA 24112)	Proceeding under Sections 3008(a) and (g)
·)	of the Resource Conservation and
RESPONDENT)	Recovery Act, as amended, 42 U.S.C. §
)	6928(a) and (g)

I certify that on the date noted below, I sent by Overnight Delivery Service, a copy of the Consent Agreement and Final Order, <u>In the Matter of: Commonwealth Laminating and Coating, Inc.</u>, U.S. EPA Docket Number RCRA-03-2011-0306, to the persons and addresses listed below.

Charles L. Williams Gentry Locke Rakes & Moore 10 Franklin Road SE Suite 800 Roanoke, VA 24011

Matt Phillips
Vice President of Operations
Commonwealth Laminating
and Coating, Inc.
345 Beaver Creek Drive
Martinsville, VA 24112

The original Consent Agreement and Final Order, plus one copy, were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III.

9/30/11 DATE

T. Christopher Minshall

Senior Assistant Regional Counsel

Office of Regional Counsel

EPA, Region III 1650 Arch Street

Philadelphia, PA 19103-2029

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION III

1650 Arch Street Philadelphia, Pennsylvania 19103-2029

SUBJECT:

Transmittal Memorandum

In the Matter of: Commonwealth

Laminating and Coating, Inc.

U.S. EPA Docket No. RCRA-3-2011-0306

FROM:

Marcia Mulkey (3RC00)

Regional Counsel

Abraham Ferdas (3,

Director

Land and Chemicals Division

TO:

Renée Sarajian (3RC00)

Regional Judicial Officer

The attached Consent Agreement and Final Order ("CAFO") has been negotiated in settlement of EPA Region III's civil claims arising from violations of the Virginia Hazardous Waste Regulations ("VaHWMR"), 9 VAC 20-260-10 et seq., and Subtitle C of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 et seq. by Commonwealth Laminating and Coating. The filing of the CAFO will simultaneously commence and conclude this proceeding pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3). The CAFO is issued for violations that occurred at Commonwealth Laminating and Coating's facility located at 345 Beaver Creek Drive, in Martinsville, VA, 24112. Final Orders are required to be signed by the Regional Administrator, or his designee, the Regional Judicial Officer in U.S. EPA Region III. The attached CAFO will become effective upon its filing with the Regional Hearing Clerk.

We concur with the terms of the attached CAFO. This settlement was determined in accordance with the statutory factors set forth in Section 3008(a)(3) and (g) of RCRA, with specific reference to EPA's June 2003 RCRA Civil Penalty Policy, as modified by the Revised Penalty matrices of January 12, 2009. Accordingly, we recommend that you sign the attached Final Order and return the CAFO to the Office of Regional Counsel for further processing.

cc:

Charles L. Williams Gentry Locke Rakes & Moore 10 Franklin Road SE Suite 800 Roanoke, VA 24011

Customer Service Hotline: 1-800-438-2474

GENTRY LOCKE RAKES & MORE

Charles L. Williams

(540) 983-9375

charles_williams@gentrylocke.com

Attorneys

July 14, 2011

Facsimile 540-983-9400
Post Office Box 40013
Roanoke, Virginia 24022-0013

VIA EMAIL

Ms. Jessica O'Neill Assistant Regional Counsel U.S. Environmental Protection Agency, Region III Office of Regional Counsel (3RC30) 1650 Arch Street Philadelphia, PA 19103

Re:

Commonwealth Laminating & Coating, Inc.

Dear Jessica:

Following our call on Monday, I asked Mr. Perkins to prepare an outline of our analysis regarding the proposed civil penalty. Attached is a copy of his letter of July 13, 2011.

If you would like to schedule a call to further discuss this, please let me know.

Very truly yours,

GENTRY LOCKE RAKES & MOORE, LLP

Charles L. Williams

CLW:lbs

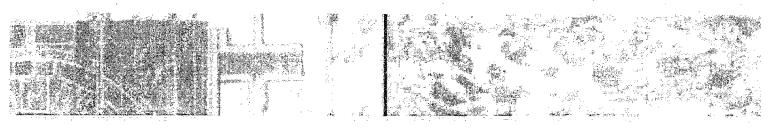
Enclosure

cc:

Mr. M. Brandon Lane

Scott E. Perkins, P.E.

Paul G. Klockenbrink, Esq.



FAULKNER & FLYNN ENVIRONMENTAL, MANAGEMENT CONSULTANTS

July 13, 2011

Reference: GLR.610.198

Mr. Charles L. Williams, Esq. Gentry, Locke, Rakes & Moore 10 Franklin Road, S.E. SunTrust Plaza • Roanoke, VA 24011

Re: Penalty Calculation Revisions In the Matter of the Commonwealth Laminating and Coating,

Inc.

Dear Charlie:

Faulkner & Flynn, Inc. (F2) is providing our opinion on revised penalty calculations in the matter of Commonwealth Laminating and Coating, Inc. This information is being provided in response to the U.S. Environmental Protection Agency's (EPA) request for more detail on Commonwealth's proposed penalty revisions. These are proposed revisions based on the April 20, 2011 EPA document titled "Preliminary Draft Calculations for Settlement Purposes Only" as well as on the June 2003 EPA document titled "RCRA Civil Penalty Policy" and the 2009 Penalty Matrix Revision. Our opinion, and the basis for the proposed changes, is based on our current understanding of the facts of the case gained from a thorough review of the Facility and several conversations with the EPA, your office and Commonwealth personnel.

We are structuring this letter by Count, but are deferring discussion of Count I until the end, as that Count shares relevant facts with several other Counts. For each Count we have assumed the midpoint dollar value in the appropriate box in the 2009 Penalty Matrix and have added the 15% History of Noncompliance adjustment.

Count II - Failure to Keep Hazardous Waste Containers Closed When Not Adding or Removing Waste

	EPA	Proposed
Potential For Harm	Moderate	Minor
Extent of Deviation	Moderate	Moderate
Total	\$10,350	\$1,633

Rationale – As described in F2's June 30, 2011 letter, the risk associated with this wastestream is relatively low. Furthermore, employees are routinely working with the solvents in product form and are well acquainted the associated risks and generally take appropriate precautions. The Potential for Harm is therefore deemed minor.

A MARSH & MCLENNAN Agency Company

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Mr. Charles Williams Reference: GLR.610.198 07/13/2011 Page 2

Count III - Failure to Conduct Waste Determinations

	EPA	Proposed
otential For Harm	Moderate	Minor
Extent of Deviation	Minor	Minor
Total	\$6,900	\$495

Rationale – The Potential for Harm associated with empty aerosol cans is deemed to be minor, not moderate. These cans are in use in a daily basis, are in good condition, and Commonwealth personnel are well aware of the risk associated with mishandling the cans, whether they are in product form, or in waste form. Using the criteria in EPA's guidance, the probability of exposure is low and the potential seriousness of contamination is minor. With regards to the "harm to the RCRA regulatory program" criteria it has already been established that Commonwealth made a good-faith effort at waste characterization and as such were attempting to work within the confines of the RCRA program.

Count IV - Failure to Keep Universal Waste Lamps in Closed Containers

	EPA	Proposed
Potential For Harm	Minor	Minor
Extent of Deviation	Moderate	Moderate
Total	\$1,725	\$1,725

Rationale - Not applicable.

Count V - Failure to Properly Label Universal Waste Lamp Containers

	EPA	Proposed
Potential For Harm	Minor	Minor
Extent of Deviation	Minor	Minor
Total	\$575	\$575

Rationale - Not applicable.

Mr. Charles Williams Reference: GLR.610.198 07/13/2011 Page 3

Count VI - Failure to Conduct Annual RCRA Refresher Training

	EPA	Proposed
Potential For Harm	Moderate	Minor
Extent of Deviation	Minor	Minor
Total	\$28,750	\$2,473

Rationale – EPA's initial allegation stated four employees did not have RCRA refresher training. Commonwealth has provided evidence that two of these employees had annual training throughout the five-year period, one employee had training in four of the five years (and had training prior to the five-year period), and one employee had not received training. It has been established that Commonwealth had a structured RCRA training program that had been resulted in training in an overwhelming majority of the cases. The potential for harm associated with one individual out of an entire workforce not receiving training is deemed minor. The potential for harm associated with a second individual missing one year of training is also deemed minor.

Count VII - Failure to Maintain a List of RCRA Job Descriptions

	EPA	Proposed
Potential For Harm	Minor	Minor
Extent of Deviation	Minor	Minor
Total	\$ 575	\$575

Rationale - Not applicable.

Count VIII - Failure to Maintain an Updated Contingency Plan

	EPA	Proposed
Potential For Harm	Minor	Count Withdrawn
Extent of Deviation	Minor	
Total	\$575	,

Rationale - Not applicable.

Mr. Charles Williams Reference: GLR.610.198 07/13/2011 Page 4

Count I - Operating Without a Permit or Interim Status

	EPA	Proposed
otential For Harm	Moderate	Minor
Extent of Deviation	Moderate	Minor
l'otal	\$10,350	\$495

Rationale - There are six subcounts alleged by EPA

- A. Labeling Deemed by F2 to have a Minor Potential for Harm and a Moderate Extent of Deviation.
- B. Closed Containers Deemed by F2 to have a Minor Potential for Harm and a Moderate Extent of Deviation (see Count II).
- C. >55-Gallons Shown to not have been a violation as discussed in F2's June 30, 2011 letter.
- D. Annual RCRA Training Deemed by F2 to have a Minor Potential for Harm and a Minor Extent of Deviation (see Count VI).
- E. RCRA Training Documentation Deemed by EPA to have a Minor Potential for Harm and a Minor Extent of Deviation.
- F. Contingency Plan Withdrawn

When viewed in their totality, F2 believes a vast majority of the requirements necessary to avoid a RCRA Storage Permit (per 40 CFR 262.34) were satisfied. With only a few examples provided by EPA to the contrary, it is F2's opinion that the Extent of Deviation is suitably categorized as Minor. With regards to the Potential for Harm, based on EPA's criteria in the referenced RCRA Civil Penalty Policy, it is F2's opinion that the proper classification is Minor. The integrity of the RCRA program has not been notably harmed as not only has Commonwealth made a good faith effort at compliance, they have developed a waste management program that met a vast majority of the requirements.

The following table summarizes our opinion as compared to EPA's original proposed penalty:

	EPA	Proposed
Count I	\$10,350	\$495
Count II	\$10,350	\$1,633
Count III	\$6,900	\$495
Count IV	\$1,725	\$1,725
Count V	\$575	\$575
Count VI	\$28,750	\$2,473
Count VII	\$575	\$575
Count VIII	\$575	\$0.
Total	\$59,800	\$7,791

Mr. Charles Williams Reference: GLR.610.198 07/13/2011 Page 5

Please do not hesitate to contact me at (540) 767-4153 if you have any questions or comments.

Sincerely,

Scott E. Perkins, P.E.

Senior Consultant

GENTRY LOCKE RAKES & M©RE Attorneys

Charles L. Williams

(540) 983-9375

charles_williams@gentrylocke.com

Facsimile 540-983-9400

Post Office Box 40013

Roanoke Virginia 24022-0013

July 8, 2011

VIA EMAIL

Ms. Jessica O'Neill Assistant Regional Counsel U.S. Environmental Protection Agency, Region III Office of Regional Counsel (3RC30) 1650 Arch Street Philadelphia, PA 19103

Re: Commonwealth Laminating & Coating, Inc.

Dear Ms. O'Neill:

We are submitting what we believe to be our final response to your show cause communication in the form of a letter dated June 30, 2011, from Faulkner & Flynn. Since receiving this show cause request and examining the comments and criticisms of the Agency, our client has engaged these consultants not only to examine the specific areas of concern but also to examine all wasterelated business practices.

As to the specific violation Counts, we have examined each of them and have considered the penalty policies and the calculations that you have shared. We have made adjustments based on what we believe the prevailing facts to be and we propose an alternate calculation for your consideration.

With respect to our analysis, we consider Count VIII regarding the Contingency Plan to be withdrawn. With respect to the additional Counts, we accept certain of your findings as set forth in our earlier response and the supplemental response attached to this submittal. Generally, it is our view that with respect to a number of Counts, there was compliance with the regulations, although the documentation was not maintained in a fashion that was readily and easily examined. To that point, our client is in the process of implementing an Environmental Management System that will address and correct any deficiencies. As to certain other Counts, particularly those related to training, we have simply pro-rated the penalty calculation based on what we believe to be the outstanding areas of non-compliance. Particularly, we believe that out of the four individuals named, that appropriate and timely training occurred with respect to two of the four. With respect to Mr. Braziel, he lacked training for one of the years in question and, as to Mr. Showfety, he lacked training for all five years.



Ms. Jessica O'Neill July 8, 2011 Page 2

We look forward to talking with you next week and, in the interest of a resolution, offer an agreed civil charge of \$11,000.

Very truly yours,

GENTRY LOCKE RAKES & MOORE, LLP

Charles L. Williams

CLW:lbs

Enclosures

cc: Mr. M. Brandon Lane

Scott E. Perkins, P.E.

Paul G. Klockenbrink, Esq.



FAULKNER & FLYNN ENVIRONMENTAL MANAGEMENT CONSULTANTS

June 30, 2011

Reference: GLR.610.198

Ms. Jessica O'Neill Assistant Regional Counsel U.S. Environmental Protection Agency, Region III Office of Regional Counsel (3RC30) 1650 Arch Street Philadelphia, PA 19103

Re: Additional Response to March 22, 2011 Show Cause Letter In the Matter of the Commonwealth Laminating and Coating, Inc.

Dear Ms. O'Neill:

Faulkner & Flynn, Inc. (F2), on behalf of Commonwealth Laminating and Coating, Inc. ("Commonwealth"), is responding to your March 22, 2011 Show Cause Letter relating to allegations associated with the Resource Conservation and Recovery Act (RCRA). Please note that the information provided in this letter supplements information previously provided to your office on May 20, 2011 by Commonwealth.

As discussed in several conference calls between F2, Commonwealth, Gentry, Locke, Rakes and Moore and your office, we have information relevant to this matter which we believe the United States Environmental Protection Agency (EPA) should consider as mitigating factors. We have constructed our presentation of this information to be consistent with the information presented in the aforementioned Show Cause Letter.

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Ms. Jessica O'Neill Reference: GLR.610.198 06/30/2011 Page 2

Operating Without a Permit or Interim Status

- 1. Failure to Label Containers Nothing further to add.
- 2. Failure to Close Containers It is our understanding that the containers in question contained solvent-impacted rags that were coded F003. Commonwealth chooses to conservatively manage this waste stream as a hazardous waste when it could potentially be managed as non-hazardous waste (provided isopropyl alcohol is the only solvent present). It is Commonwealth's belief that the rags in question probably did not meet the ignitable solid definition. Given the relatively benign nature of the solvent-impacted and the fact they may not meet the hazardous waste characteristic for ignitability, we feel that the "Potential for Harm", which EPA has categorized as "Moderate", should be reduced.
- 3. Exceeding 55-Gallon Limit in Satellite Accumulation Areas There is no information provided to demonstrate that the 55-gallon limit had been exceeded. The EPA references the satellite accumulation areas located at the U72 Pressure-Sensitive Coating Line, the U73 Pressure-Sensitive Coating Line and the Polyester Dyeing Line. At each of these locations there were two drums; one a 55-gallon liquid drum (partially filled with solvent-related waste) and the other a smaller drum (typically approximately 15 gallons in volume containing rags). No measurements were provided of the liquid levels in the 55-gallon drums or of the volume of rags in the smaller drums. Furthermore, standard procedure is that the rag drums are removed to one of the 90-day storage areas at the end of each work shift. Consequently, if the 55-gallon limit is reached at any given satellite accumulation area, the excess waste is moved within the 72-hour limit allowed by 40 CFR 262.34(c)(2).
- 4. Failure to Provide Annual RCRA Training Nothing further to add.
- 5. Failure to Maintain RCRA Training Documentation The EPA alleges that Commonwealth "failed to maintain documentation of the job titles and job description for each position at the facility related to hazardous waste management." Commonwealth maintains a document, attached to this letter entitled "Training Checklists and Position Requirements," that indicates an attempt made by Commonwealth to provide just this type of information. For example, the "Lead" position is required to "make safety/housekeeping/environmental walkthroughs and assures operational compliance." While Commonwealth acknowledges that more specificity with regard to hazardous waste-related responsibilities would be appropriate, this document provides a foundation for compliance with this requirement. Commonwealth will certainly expand the document to be fully compliant with the RCRA documentation requirement, but we feel it demonstrates an attempt to comply.
- 6. Failure to Maintain an Updated Contingency Plan Nothing further to add.

Ms. Jessica O'Neill Reference: GLR.610.198 06/30/2011 Page 3

Failure to Keep Containers Closed

Please see item #2 above.

Failure to Make a Waste Determination

Commonwealth did characterize the empty aerosol cans. The cans met the RCRA empty definition and consequently were non-hazardous. The liquid contents met the RCRA empty definition under 40 CFR 261.7(b)(1) as "all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container" and "no more than 2.5 centimeters of residue remain on the bottom of the container." With regard to the compressed gas in the container, under 40 CFR 261.7(b)(2) the container is considered empty "when the pressure in the container approaches atmospheric." It is Commonwealth's determination that a functional (e.g. valve stem not broken) aerosol can that has been used until no more product or propellant comes out would have de minimis excess pressure and would consequently meet the RCRA definition of empty.

Failure to Keep Universal Wastes in Closed Containers

Nothing further to add.

Failure to Label Universal Waste Containers

Nothing further to add.

Failure to Conduct Annual Hazardous Waste Training

Nothing further to add.

Failure to Maintain Job Description Records

Please see item #5 above.

Failute to Maintain an Updated Contingency Plan

Nothing further to add.

Ms. Jessica O'Neill Reference: GLR.610.198 06/30/2011 Page 4

Please do not hesitate to contact me at (540) 767-4153 if you have any questions or comments.

Sincerely,

Scott E. Perkins, P.E.

Senior Consultant

Attachment

cc: Charles L. Williams, Jr., Esq. - GLRM

Training By Classification

Requirements

Management/Sales/Acct/Purchasing

Emergency Action Plan Fire Extinguisher

Engineering/Maintenance

Emergency Action Plan
Fire Extinguisher
Lockout/Tagout
Forklift (Academic)
Personel Protective Equip.
Hazardous Communications
Hazardous Waste 40 CFR 265.16(a) (2)
Dot Hazardous Materials 49 CFR 172.704
Bloodborne Pathogens

Engineering Process/Coatings

Emergency Action Plan
Fire Extinguisher
Lockout/Tagout
Forklift (Academic)
Personel Protective Equip.
Hazardous Communications
Hazardous Waste 40 CFR 265.16(a) (2)
Dot Hazardous Materials 49 CFR 172.704
Bloodborne Pathogens

U-60/U72/U73/V1- Lines

Emergency Action Plan
Fire Extinguisher
Lockout/Tagout
Personel Protective Equip.
Hazardous Communications
Hazardous Waste 40 CFR 265.16(a) (2)
Forklift (Academic)
Bloodborne Pathogens

Mixing

Emergency Action Plan
Fire Extinguisher
Lockout/Tagout
Forklift (Academic)
Personel Protective Equip.
Hazardous Communications
Hazardous Waste 40 CFR 265.16(a) (2)
Dot Hazardous Materials 49 CFR 172.704
Bloodborne Pathogens

Packaging

Hazardous Communications
Emergency Action Plan
Fire Extinguisher
Lockout/Tagout
Forklift (Academic)
Personel Protective Equip.
Bloodborne Pathogens

Rewind

Hazardous Communications
Emergency Action Plan
Eire Extinguisher
Lockout/Tagout
Forklift (Academic)
Personel Protective Equip.
Bloodborne Pathogens

						Required Training	90			
·		. 1								Waste
Positions	Lockout	ockout/ Bloodborne Forklift	Forkiit	PPE	Emergency	Emergency Hazardous Fire	Fire	Reach Truck	Reach Truck General Waste	Shipme
	Tagout	Pathogens			Action	Communications	Extinguisher	Training	Handling	Manifest
					Response					
Lead	×	×	×	×	×	×	×		×	
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Helper	×	×	**	**	×	*	×	×	×	
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Machines

Depts

Mix Shipping

Rewind

Frequency TBD

Below are the MINIMUM expectations for being considered at the next level of operational performance, Actual promotion would require your lead, team, and manager to recommend.

Assumed at all tevels is adherence to all company safety, performance, and housekeeping standards and practices.

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	Chartoing factics when one method is not ware no		
	expects from to be familier with expectations.		
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	Unusual, infrequent, or first time occurrence troublacknosting		
	Works with england management to lead new troubleshoone efforte		***************************************
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	Applies hast learnings		
	Applies all SOPs and SOCs appropriately		
	can toubleshoot and act as resource for all 3 machines	The section of the se	
	Perform all lab tests and troubleshoot lab equipment		
	Recognize product and customer specific sensitivities and tolerances		***************************************
	Full manipulation of integrator-make reports, bookat trends, identify and arknowledge fault		
	Familiar with support equipment operations and setun.	The state of the s	***************************************
	Can proof SOCs and SOPs for accuracy and reasonability	***************************************	
	Optimizes efficiency of all materials and operations		
	Insures all quality parameters and test schemes are met		
	Make product acceptability judgments		
	Make color adds based on color knowledge, history, and remines		
	Makes safety/housekeeping/environmental walkthroughs and assures oberational complance		
	Demonstrated knowledge of waste handing		
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	Supports maintenance at needed times		
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•

Below are the MINIMUM expectations for being considered at the next level of operational performance. Actual promotion would require your lead, team, and manager to recommend.

Assumed at all levels is adherence to all company safety, performance, and housekeeping standards and practices.

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Assistant lead (expected at 1.5 to 3 yrs) above, pits	Task-related training responsibilities	Fill-in for Lead in technical operation and troubleshooting	Startup and shutdown of machine	Level-2 troubleshixeting	Frequent machine and product problems	Recognizes unusual machine run conditions	Adjust tension, blade, overspeedfor proper roll tracking and coat weights	Perform all OA labitesting	Recognize efficiencies within the schedule	Make a call to stop or shutdown the machine, or discontinue an order	Can read mix recipes and make mixes as required	Integrator/Punethiew interaction-load recipes, acknowledge and clear faults	Compare raws to raw specifications and standards	Familiar with all SOPs and SOCs	assign manning as necessary.	Familiar with all support equipment, locations, and basic functions	Make color adds according to provided instructions	Understands, monitors and dethaws VRU	Organize and prepare for furthcoming changeover	Coordinates with Maintenance and Quality to minimize downtime on the machine	Can complete all documentation required; products, shift change; raw rejection; web break; bag info	Familiar with and can make walkurough for safety, housekeeping, and environmental compliance issu-	Can perform foll-startup and shutdown per checklist

Below are the MINIMUM expectations for being considered at the next level of operational performance. Actual promotion would require your lead, team, and manager to recommend.

Assumed at all levels is adherence to all company safety, performance, and housekeeping standards and marrings

Helper (expected at 3 to 15 months) completed all Basic CLC training; forkitt; HAZCOM; Ener Response; Waste ite, recognites/identify all machine components recognizes/define all machine risks clean/strip cylinders safely		Trafaeo	Tuestan
completed all Basio CLC training, for recognize/fetentify all machine correctognize/define all machine risks clean/strip cythoders safely			Lame
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clean/strip cylinders safely		-	
perform basic lab tests- coat weight: vit. adhesion color visuals	t: vft. adhesion.color visuals		
Static and friction safety			
Read and properly interpret 80M		Harden of the second se	
Setup and load unwinders according to BOM	R to BOM		- Contraction
Pick materials according to BOM			
Pump in and clean up mix			
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Can remove/install tips and cylinders	** Z		
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Proper labeling and handling of drums, it and return from machine	ns, in and return from machine	***************************************	
Complete a funsheet.	The state of the s		
Adjust/replace slitter blades	-		
check slitter waste handling			

Training checklist

Position:	_ Mix Room Operator/Machine room Basics of Mix
Trainee:	
Checklist begin date:	

Task	Subtask	Trainee	Trainer
			(indicate intials and date completed)
SAFETY			:
	Wear safety glasses	:	
	Open drums slowly	· · · · · ·	i markan kanala ka
	Mixer off B4 solvent adds	1	
	correct hoist book up on resin drums		•
	Housekeeping-hoses after finished		•
ľ	Explosion proof room- no elect eqt!		•
**	Correct tow motor	ŧ.	
	Grounding strap usage	•	•
	Lids on to prevent splash, contam	• • •	•
Basic Mix Operations	and the second of the second o	t .	•
	en suent en den .	!	
Waste Handling	General Waste Handling/Waste Streams		! :
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	Weste Storage/acoumulation		
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Training Checklist

Position:	Rewinder
Trainee:	
Checklist hagin date:	

Task	Subtask		Trainee		Tral	ner
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v 15.			· .			111111111111
Area safety						
(must be completed	Basic CLC Safety Guidelines					
by 3rd working day!)	Knife safety					
	Proper lifting					
	housekeeping					
	loading/unleading rolls			-		
•	moving/inserting snaft/cores					
	Solvent usage		•			
	stapler nazards					
	safety film cut risks					
	dress/clothing					
. a	food and drink					
	moving equipment/rollers					
, housekeeping	sweeping/cleaning					
ne as cheeping	awachirki ciganiik		-			
•	wiping eqt	. /				
•	exiting work area (stds for					
1 - 2 - 2 - 2 - 2 - 2	cores, boxes, pallets, trash,					
Americkae Carre	loading)					
Machine Setup	Read all SOPs					
	Verify machine settings					
ليست المستقالين وووج الواجا المتحي	3M printers		p			
Documentation	Box label software		:			
e Pro 1861 gales englis pagasan	Core label software		•			
	Bag		* - -			٠.
	Rewind schedule		•	•		
	Special Customer Notes		•			
	Rewind sheet	-				
	Barcoting					
· ·	Completing the bag					
	3M requirements		•	:		
Quality	Quality sheet		•			
	Defects					
	Product Standards					
A	Defect Standards	:				
:	Instruments and measurement					
	Test Methods					
*						
Aachine Run	3M print standards	:				
Mennic Ruit	observation					1
	Startup Technique (esp NSN)					:
:	Cutting Technique	,				1
	Placement In box		-			
		•				
	;					

Training checklist

Position:	Slitter
Trainee:	
Checklist begin date:	*

Task	Subtask		Trainee		Traine	r
			(indicate i	ntials and	date comp	eted)
	1	-			· ·	
rea Safety						
(must be trained on	Basic CLC Safety Guldelines					
within first 3 working	Pinch points (winder)					
days)	Balancing rolls in holst					
3	Moving shaft/lifting					
	Changing blades					
	Keeping clear of cut points	•				
	Housekeeping					
•	Removing blades before cleaning		,			
	Lifting master rolls					
	Cuts from safety film					
	Pulling shaft out: pinches					
	Stationary hoist position high					
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Training checklist

Position:	Shippin
Trainee:	
Checklist begin date:	

Task	Subtask	Trainea		Trainer
	1	(Indicate Intia		
Area safety		- 1		
	Harris and the second			
must be completed within	Basic CLC Safety Guidelines			
first 3 days of start)	Boi cutter pinch hazards on opening/			
•	closing of shaft	,		
	Bal cutter knives down when not			
	in use			
	Bol cutter: move/remove blades			
•	when not in use			
	Stapler guarding		,	
	Stapler mach off when chging spool			
	ੂStretch Wrap:			
	Machine off walle threading; pinch			
	Clear area is/around turntable			
•	Field of clearance while running			
	Auto hand Banging mach:		•	
	Pinch points: tension wheel			
	Tripping hazard on floor	•	•	
	Hand stapler:			
4.4	Hands/fingers clear from bottom		-	
	Box/film cutting:			
	Cut away from body	•	• .	
, v	Keylar gauntlet regints			
	Propane refueling:			
	Rubber gloves PPE.			
	Eye protection PPE	•	:	
	Porklift:	***	1.	я -
	Awareness of surroundings/people	:		
	Moderate speed			
	Pedestrians	•		
•	Slow down/sound horn on corners			
•	The state of the s	•		
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MANAGEMENT / SALES / OFFICE

Steve Phillips President/CEO 2 Matt Phillips COO 3 Melanie Bryant **CFO Ernie Showfety VP Operations** 5 John Braziel Facilities/Equipment Manager Jerry Draper **Assistant Plant Operations Manager** 7 Jim Arnold Sales Manager Suntek Direct 8 Rachel Halpin Human Resource Manager 9 M. Brandon Lane **Technical Services Manager** 10 Doug Migliori IT iManager 11 Tim Harrison Scheduling/Purchasing Manager 12 Yvonne Spencer Marketing Co-ordinator 13 Regina Porter Acct. Associate 14 Cassandra Penn Acct. Associate 15 Natasha Lowery Acct. Associate 16 Sara Cassidy Sales Suntek Sales Assoc. 17 Hilary Thomas Suntek Senior Sales Assoc. 18 Wendy Dodson Sales Suntek Sales Assoc. 19 Donna Clark Sales Suntek Sales Assoc. 20 Ashley Reynolds International Sales Supervisor 21 Letreivia Penn International Sales Assoc. 22 Teresa Goins IT Administrator

PURCHASING/SCHEDULING

23	Jessie Collie	Scheduling/Planning Association
24	Evette Phillips	Purchasing Associate
25	Kenneth Reynolds	Purchasing Associate
26	Dustin Headen	Planning Anaylist

MANAGEMENT / SALES / OFFICE

1 Steve Phillips President/CEO 2 Matt Phillips COO Melanie Bryant CFO 4 **Ernie Showfety VP** Operations 5 John Braziel Facilities/Equipment Manager Jerry Draper Assistant Plant Operations Manager Jim Arnold Sales Manager Suntek Direct Rachel Halpin Human Resource Manager M. Brandon Lane 9 **Technical Services Manager** 10 Doug Migliori IT Manager 11 Tim Harrison Scheduling/Purchasing Manager 12 Yvonne Spencer Marketing Co-ordinator 13 Regina Porter Acct. Associate 14 Cassandra Penn Acct. Associate 15 Natasha Lowery Acct. Associate 16 Sara Cassidy Sales Suntek Sales Assoc. 17 Hilary Thomas Suntek Senior Sales Assoc. 18 Wendy Dodson Sales Suntek Sales Assoc. 19 Donna Clark Sales Suntek Sales Assoc. 20 Ashley Reynolds International Sales Supervisor 21 Letreivia Penn International Sales Assoc. 22 Teresa Goins IT Administrator

PURCHASING/SCHEDULING

23	Jessie Collie	Scheduling/Planning Assoc
24	Evette Phillips	Purchasing Associate
25 26	Kenneth Reynolds Dustin Headen	Purchasing Associate Planning Anaylist

Maintenace/Security

27	David Reed	Maintenance Supervisor	1ST
28	Desmond Felts	Maintenance	1ST
29	Mike Anderson	Utility Man	1ST
30	James Robertson	Maintenance	2ND
31	Joshua Shacklock	Maintenance	3RD
32	Richard Toney	Security/Maint	,
33	Allyson Martin	Security/Prod	•

ENGINEERING PROCESS / COATINGS

34	Mark Phillips	Engineering Tech.
35	Larry Lawson	Supervisor\Process support Engineer
36	Timothy Gerasimov	ProductDevelopment/Process support Eng.
37	Andre Hairston	Associate Eng.
38	Ralph Schultz	Senior Process Eng.

U - 60 LINE

39	Tony Thacker	(Lead Operator)
40	Neil Phillips	(Lead Operator)
41	Eugene Setliff	(Lead Operator)
42	Kevin Smith	Associate Operator
43	Donald Mays	(Lead Operator)
44	Jamie Seale	Associate Operator
45	Jason Motley	Associate Operator
46	Bryon Burnett	Associate Operator
	1955 Comment of the C	

<u>U-72 LINE</u>

U - 73 LINE

47		
47	Bruce Broadstreet	(Lead Operator)
48	Donald Mays	(Lead Operator)
49	Dwayne Hollandsworth	Lead Assistant Operator
50	Melvin Carter	(Lead Operator)
51	Marty Shelton	Lead Assistant Operator
52	Steve Young	Associate Operator
53	Jeff Hawks	(Lead Operator)
54	Shawn Stephens	Lead Assistant Operator
55	Paul Pelletier	Lead Assistant Operator
56	Perry Adams	(Lead Operator)
57	Al Baker	Associate Operator
58	Ryan Taylor	Lead Assistant Operator
59	Tim Craddock	Associate Operator
60	Doug Lemons	Associate Operator
61	Tom (Scott) Surratt	Associate Operator
62	Joeseph Saunders	Associate Operator
63	Ricky Neamo	Associate Operator
64	Geoffrey Richardson	Associate Operator
65	Terry Setliff	Associate Operator
66	Kenny Mc Guire	Associate Operator

V1_Dye House

67	Joey Lambeth	Operator
68	Mike Amos	Operator
69	Daryl Barbour	Operator
70	Mike Carter	Operator
71	Clyde Woods	Operator
72	Bryce Walker	Operator
73	Alfred Amos	Operator
74	Mike Hollandsworth	Operator

MIXING

75	Barry Hylton	Mixing Specialist
76	Thomas Farris	Associate Mixer
77	Charles Clark	Associate Mixer

<u>LAB</u>

78 Robin France

QA Technician

PACKAGING

79	Curry Roberts	Shipping Manager	
80	Wes Coleman	Suntek Shipping Associate	
81	Steve Goff	Suntek Shipping Associate	
82	Tommy weathford	Shipping clerk	
83	Glenn Mouyios	Shipping clerk	
84	Susie Baldwin	Suntek Shipping clerk	
85	Tim Shoup	Suntek Shipping Associate	
86	Nathanial Barbour	Shipping clerk	
87	Ben Carr	Suntek Shipping Associate	P/T
88	Ray Hairston	Shipping clerk	,
89	Jordan Scales	Box Maker	
90	Jordan Young	Box Maker	P/T
91	Jonathan Scales	Box Maker	
92	Billy Hills	Box Maker	P/T

REWIND

93	Margaret Martin	Lead Operator
94	Matt Young	Slitter/Rewind Operator
95	Ramona Oakly	Assoc. Rewind Operator
96	Jean Clark	Assoc. Rewind Operator
97	Pam Finney	Assoc. Rewind Operator
98	Michell Redd	Assoc. Rewind Operator
99	Donna Craighead	Assoc. Rewind Operator
100	Melissa Harper	Assoc. Rewind Operator
101	Faye Gravely	Assoc. Rewind Operator
102	Catherine Williams	Assoc. Rewind Operator
103	Wanda Dillard	Assoc. Rewind Operator
104	Sharon Strickland	Assoc. Rewind Operator
105	Larry Thompson	Assoc. Rewind Operator
106	Susie Lawson	Assoc. Rewind Operator
107	Chris Johnston	Assoc. Rewind Operator
108	Sharon Hairston	Assoc. Rewind Operator
109	Yechsiah Brandon	Assoc. Rewind Operator

1)8189 1/11/11

ENFORCEMENT PRIORITY SCREENING CHECKLIST ENFORCEMENT SENSITIVE - DO NOT RELEASE

Name and Location of Violator: Program Contact: Martin Matlin
Commonwealth Laminating & Coating, Inc. 345 Beaver Creek Drive Martinsville, VA RCRA ID#: VAR000008433 RCRA Status: LQG
Industry SIC Code: 3081 # of Employees: 110
Date of Inspection:Annual Income:
Recommended Action: APO EJ Area:
Projected Quarter:Children's Health Issue:
SCREENING QUESTIONS
 1. What is the violation(s)? Were there violations of reporting requirements such as manifest, DMRs, lab reports or training? Did the violation(s) deprive EPA or any state or local environmental agency of information critical to its program operation or otherwise undermine the regulatory scheme? Please Describe: Failure to keep several satellite containers closed/properly labeled Storage of >55gal HW in satellite areas Failure to conduct waste determinations of aerosol cans and solvent wipes (both disposed in trash) Failure to keep UW lamps in closed, labeled containers Contingency Plan missing equipment list Several employees missed yearly RCRA training Failure to maintain RCRA job descriptions
2. Could or did the violation cause or contribute to actual harm to public health or the environment? Is the violation continuing? NO
3. Is this a repeat or recurring violation or violator? Is there a history of non- compliance? Please Describe: YES State order & \$25,000 penalty in 2006 included several similar violations
4. Is this a significant/high priority violation according to the program's guidance?
5. Are there known or suspected violations of other regulatory requirements? Does this case have multi-media potential?
6. Have there been any State enforcement actions taken for the violation(s)?

NO -- not these specific violations, but similar ones in the past

7. Has the company or any individuals employed by the company submitted false or misleading information or documents? Has there been any tampering with monitoring equipment?

NO

- 8. Does the violation involve knowing, willful or negligent conduct by the company or any individual employed by the company? Is there evidence that the violator was, or should have been, aware of the requirement(s) which were violated? Please describe: NO
- 9. Is it known whether the violator has received compliance assistance and has failed to correct the violation in a timely manner? Please describe:
 NO
- 10. Is it suspected that the violator may have obtained an economic benefit or an unfair competitive advantage in its industry from its noncompliance?
- 11. Should an enforcement action proceed to the penalty stage, are there any known SEP proposals that might be brought to the violator's attention?

 NO
- 12. Did the violation occur in a Community Based, Sector Based or Regional Strategic Planning Priority Area as reflected in the current Enforcement MOA or elsewhere? Unknown

Enforcement Options:

APO



Charles L. Williams

(540) 983-9375

charles_williams@gentrylocke.com

Attorneus

August 16, 2011

Facsimile 540-983-9400 Post Office Box 40013

Roanoke, Virginia 24022-0013

VIA EMAIL AND US MAIL

Ms. Jessica O'Neill Assistant Regional Counsel U.S. Environmental Protection Agency, Region III Office of Regional Counsel (3RC30) 1650 Arch Street Philadelphia, PA 19103

> Commonwealth Laminating & Coating, Inc. Re:

Dear Jessica:

As we committed last week, we write to propose a settlement package for your consideration.

Commonwealth Laminating offers to pay a civil charge of Thirty-Thousand Dollars (\$30,000) in resolution of the outstanding enforcement action. This sum would be paid by submitting Ten-Thousand Dollars (\$10,000) in cash and by implementing the supplemental and environmental project described in the attached letter of August 16, 2011 from Faulkner & Flynn.

It is our hope and belief that our proposal lies entirely within the applicable enforcement policies and it is our hope that we can achieve a hasty resolution.

As usual, I'm happy to discuss any aspects of this with you.

Very truly yours,

GENTRY LOCKE RAKES & MOORE, LLP

Charles L. Williams

CLW:ile Enclosure

GENTRY LOCKE RAKES & MODRE^{UP}

Ms. Jessica O'Neill August 16, 2011 Page 2

ce: Mr. M. Brandon Lane

Mr. Matt Phillips



August 16, 2011

Reference: GLR.610.198

Ms. Jessica O'Neill
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
Office of Regional Counsel (3RC30)
1650 Arch Street
Philadelphia, PA 19103

Re: Proposed Supplemental Environmental Project for Commonwealth Laminating and Coating, Inc.

Dear Ms. O'Neill:

Faulkner & Flynn, Inc. (F2), on behalf of Commonwealth Laminating and Coating, Inc. ("Commonwealth"), is providing this proposal and evaluation for a Supplemental Environmental Project ("SEP") for your consideration in relation to allegations associated with the Resource Conservation and Recovery Act (RCRA) as referenced in the U.S. Environmental Protection Agency's ("EPA") March 22, 2011 Show Cause Letter. The proposed SEP outlined in this letter is consistent with the EPA 1998 SEP Policy.

Proposal

Commonwealth proposes to develop and implement a compliance focused Environmental Management System (EMS) using the ISO 14001 standard as a general specification. Commonwealth's EMS will be a proactive system focusing on compliance with applicable regulatory requirements under the Resource Conservation and Recovery Act, the Clean Water Act, the Clean Air Act, the Emergency Planning and Community Right-To-Know Act and additional state and local standards under these same statutes.

Commonwealth's EMS will include an environmental policy as well as identify applicable legal requirements and environmental aspects of the facility's operations. Commonwealth will screen environmental aspects for significance and develop implementing programs to satisfy objectives. Objectives will be consistent with Commonwealth's environmental policy, legal requirements and significant environmental aspects.

Commonwealth will develop and implement a training program that addresses a variety of legally required and operationally beneficial training needs. In addition, Commonwealth will develop a routine self-auditing program to analyze operations for compliance with legal environmental

A MARSH & MCLENNAN Agency Company

The Liberty Trust Building • 101 South Jefferson Street, 2nd Floor • Roanoke, Virginia 24011
Telephone (540) 985-9540 • Facsimile (540) 985-9538 • www.faulknerflynn.com • info@faulknerflynn.com

FAULKNER & FLYNN

Ms. Jessica O'Neill Reference: GLR.610.198 08/16/11 Page 2

requirements and conformance with the EMS. They will also develop a corrective and preventive action program to reduce the risk of non-compliance and non-conformance with the EMS. Finally, Commonwealth will adopt a management review process to ensure an adequate level of upper management involvement and support.

Development and implementation of the EMS is expected to take two years. Included in this proposed SEP will be the following specific tasks:

- Develop an environmental policy;
- Formally identify applicable environmental legal requirements;
- Identify environmental aspects and screen for significance;
- Develop compliance focused objectives and subsequent action plans;
- Perform a baseline environmental compliance audit;
- Further identify and document roles, responsibilities and authorities;
- Enhance the existing training program to conform with EMS requirements;
- Enhance current operational controls/standard operating procedures;
- Develop a nonconformity, corrective action and preventive action process;
- Develop a management review process.
- Perform an EMS audit at the conclusion of an initial development and implementation process;
- Perform a follow-up environmental compliance audit after two years.

Supporting Information

F2 is providing the following information to EPA to facilitate its evaluation of this proposed SEP against statutory criteria:

Environmentally Beneficial – This environmental compliance focused EMS will reduce risks to public health and the environment by enabling Commonwealth to take a more structured and proactive approach to environmental compliance and operations that otherwise could potentially have adverse impacts on the environment. The EPA has historically viewed EMSs favorably in this regard.

As Partial Settlement of a Civil Enforcement Action – Commonwealth has not previously considered development and implementation of an EMS and is solely doing so now in response to the recent EPA enforcement efforts.

Not Otherwise Required By Law - We are unaware of any federal, state or local law requiring Commonwealth to develop an EMS.

Nexus - As the EMS will developed for use by Commonwealth there is a clear geographic nexus to the alleged violations. More importantly, the proposed EMS will reduce the likelihood of similar violations. The EMS will include explicit procedures designed to ensure, among other things, that waste generation and management and disposal actions are in compliance with all identified

FAULKNER & FLYNN

Ms. Jessica O'Neill Reference: GLR.610.198 08/16/11 Page 3

requirements under RCRA. Furthermore, Commonwealth will enhance its current training program to ensure not only that personnel receive and understand the legally required training, but that they better understand the potential environmental impacts of the facility and its operations.

We estimate the minimum cost of this SEP to be \$30,000. However, the final cost may vary depending on the amount of effort contributed by Commonwealth to develop the EMS.

Please do not hesitate to contact me at (540) 767-4153 if you have any questions or comments.

Sincerely,

Scott E. Perkins, P.E.

Senior Consultant

cc: Charles L. Williams, Jr., Esq. - GLRM

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